

District II Advisory Board Minutes

November 18, 2002

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The District II Advisory Board meeting was held at 7:00 p.m. at the Rockwell Branch Library at 5939 E. 9th Street North. There were 45 citizens in attendance only those signing the welcome sheet are listed below.

Members Present

Council Member Joe Pisciotte
Martha Bruce Fair
Michele Chauncey
Charlotte Foster
John Fuller
Tim Goodpasture
Ray Hinderliter*
Shirley Jefferson
Joe Johnson
Mike Jones
Max Weddle*

Members Absent

Marla Flentje
Larry Frutiger
Joe Patrick*
Kathy Wegner

*** Denotes an alternate DAB member**

Staff Present

Donna Goltry, MAPD
Paul Gunzelman, Public Works
Donte Martin, CMO
Kurt Schroeder, OCI

Guests

Allen Bell
Kim Bell
Alan Broddle
Mitzie Hall
Dan Huyett
Jim Vossen
BSA Troop #662

ORDER OF BUSINESS

Call to Order

The meeting was called to order at 7:00.

Approval of Minutes and Agenda

The minutes for October 21, 2002 were approved 8-0 as submitted (Johnson/Chauncey).

The agenda for the November 18, 2002 DAB II meeting was approved as submitted (Chauncey/Johnson).

PUBLIC AGENDA

1. Scheduled items

Parents as Teachers - Mitzi Hall, Wichita Public Schools, presented a video and answered questions regarding programs for parents to enhance their child's learning from infancy to five years of age.

2. Off-agenda items

No items submitted

STAFF PRESENTATIONS

3. Arterial Sidewalks

Paul Gunzelman, Public Works, presented a map showing arterial streets within District II that are without sidewalks. Gunzelman explained that there is \$450,000 programmed annually into the capital improvement plan for sidewalk installation. \$400,000 of this amount is designated to construct handicap access ramps at intersections with sidewalk. The remaining \$50,000 will be used to construct sidewalk along arterials. Gunzelman provided DAB II members a list of missing sidewalk links and asked them to prioritize this list and recommend which links DAB II would like to see completed first. The top 2 or 3 missing links per district will be programmed into the CIP.

Joe Johnson (Goodpasture) moved the DAB recommend approving the first four projects on the District II missing sidewalk list. The motion passed 8-0

Action Taken: Prioritized the project list.

4. Itinerant Merchants

Kurt Schroeder, Office of Central Inspection, presented information related to the City of Wichita's itinerant merchant and stand licensing ordinance for review by the DAB. During the winter and spring of 2002, the Office of Central Inspection (OCI) and Wichita Police Department responded to a number of complaints regarding a special, once-a-month computer equipment/software sales event. The special sale event was generally being conducted at a different location each month, and included numerous vendors specializing in the purchase and sale of computer equipment and software. The special sales event was generally located inside a building that was commercially zoned, and had been rented by the sponsor/s for the special sale.

In responding to and investigating these complaints, OCI determined that neither the event sponsor/s, nor any of the participating vendors, had obtained City of Wichita "Itinerant Merchant" or temporary "Stand" licenses as required by Title 3 of the Code of the City of Wichita. Therefore, in April 2002, a citation was issued to the event sponsor (who was from Oklahoma) for operating the monthly sales event without obtaining a City of Wichita "Itinerant Merchant" license as required by Title 3.95.010 of the City Code.

The sponsor of the monthly sales event contested the citation to the Law Department, the City Manager's Office, the City Council and others. After a detailed review of the citation and of City Code Title 3.95, the City Law Department issued a written opinion stating that the City ordinance is unenforceable as currently written, and that continued efforts to enforce it could be successfully challenged in court on constitutional grounds.

Subsequent to receiving the legal opinion from the Law Department, the City Council and City Manager's Office asked that staff review this matter in greater depth, present the issues/recommendations to DABs for public review, comment and recommendation, and then bring this back to the Council at a later date for further consideration.

During September and October 2002, a staff committee comprised of representatives from the Law Department, the Wichita Police Department, the City Express/Licensing Office, the Neighborhood Assistants Office and the Office of Central Inspection met to further review the laws and ordinances governing "itinerant merchants" and "stand vendors", and to develop some alternatives and recommendations for the District Advisory Boards' consideration.

Option 1

Repeal Chapter 3.95 of the City Code and let the Sedgwick County District Attorney's office continue to regulate this activity by enforcing the state's licensing statute. City personnel could provide assistance through our law enforcement and code enforcement personnel (by documenting the problem, providing statements to the D.A., etc.).

Option 2

Amend Chapter 3.95 to apply to all persons who engage in itinerant or transient merchant activity as defined therein, *regardless of residency*.

Option 3

Combine Chapter 3.95 regarding "itinerant merchants" and 3.08.280 regarding temporary "stand vendors" into a single ordinance, amending the current codes to apply to all itinerant merchants *regardless of residency*. The following additional provisions are also recommended:

Questions included: (1) is the current license the same for both indoor and outdoor uses; (2) what would be the county's involvement; (3) how long does the licensing process take; and (4) is there a different license necessary for door to door sales.

Schroeder's responses: (1) the same license is needed regardless of location; (2) the county will continue to enforce state statutes; (3) 1-2 days; and (4) door to door sales require a street vendors license.

Michele Chauncey (Foster) moved DAB II recommend the City Council adopt option 3. The motion passed 8-0.

Action Taken: Recommended City Council adopt option 3.

PLANNING AGENDA

5. ZON 2002-00058 & CUP 2002-40 DP-243

Donna Goltry, MAPD, present this request to amend DP-243 Smithmoor Commercial Community Unit Plan and rezone Parcel 10, which is 0.9 acre in size, from “GO” General Office to “NR” Neighborhood Retail. The amendment would permit neighborhood retail uses.

The applicant did not request any additional changes to the C.U.P. except that the parcel would be permitted “NR” signage. Currently the Wichita Sign Code is identical for “GO” and “NR” so this would not represent an actual change in permitted signage. The C.U.P. requires uniform architectural design. The Weigand real estate office has established design precedence, and any building on this site would be required to follow its precedence. The parcel description does not specify the number of buildings permitted. A preliminary site plan submitted with the application showed one commercial building as a prototype. Other existing requirements of the C.U.P. include pedestrian circulation and screening of trash and service areas and rooftop equipment. The C.U.P. requires cross-lot circulation between Parcels 1, 10 and 11 and limits these parcels to one joint access point onto Harry and no access onto Smithmoor Street.

Neighborhood Retail is considered a more intensive zoning district than “GO” General Office because it allows general retail and restaurants, subject to size limitations on both types of uses and prohibiting drive-in and drive-through restaurants. It omits a number of uses permitted in “GO” including hotels and funeral homes, as well as some of the residential and public and civic uses.

Parcel 10 is part of a 24-acre community unit plan that is approved for development of on the southwest corner of Harry and Greenwich. The adjoining parcel to the west, Parcel 1, is zoned “GO” and is developed with a real estate office. Parcel 11 to the south is zoned “GO” also, but is vacant. The remainder of the C.U.P. to the east is zoned “LC” Limited Commercial. The land west of Smithmoor Street is already developed with single-family homes and is zoned “SF-5” Single-family. The land to the south of the C.U.P. is currently under development with single-family homes and is zoned “SF-5”. The property to the north of Harry is held in large acreages and is zoned for residential use (“SF-5” and “SF-20” Single-family).

The proposed change to “NR” Neighborhood Retail would be one step greater in intensity than “GO”, but still restrict the size of retail and the size of restaurants plus eliminate drive-in/drive-through activities. The parcels closest to “SF-5” would remain office to act as a buffer to the nearby residential. Based on these factors and information available prior to the public hearing, Staff recommends the application be **APPROVED** subject to the following conditions:

1. An additional ten feet of right-of-way shall be dedicated along Harry to conform to existing right-of-way widths for arterials.
2. Parcel 10 shall be permitted one building.
3. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the Plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.

4. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
5. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
6. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

The applicant did not appear at the DAB meeting.

There were no citizens in attendance requesting to be heard concerning this case.

Charlotte Foster asked if appropriate notice had been given to area residents.

Donna Goltry replied that she believes the legal notice was sufficient but that she would have to check.

Mike Jones (Goodpasture) moved to recommend approval of the proposed zone change pending confirmation of the applicant providing sufficient legal notice.

The motion passed 8-0.

Action Taken: Approved as submitted pending confirmation of sufficient legal notice

BOARD AGENDA

6. Next Meeting

The next regularly scheduled DAB II meeting will be December 2, 2002 at the Rockwell Branch Library.

With no further business the meeting adjourned at 9:30 p.m.

Respectfully submitted,

Donte Martin
Neighborhood Assistant
District II